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Annex to the :

**"Proposal for a Regulation of the European Parliament and of the Council establishing
a European Institute for Gender Equality"**

Ex-ante evaluation

{COM(2005)81 final}

1. Context

- 1.1 The suggestion to establish a European Institute for Gender Equality was first mooted in 1995 and a draft proposal for the establishment of such an Institute was presented by the Swedish Minister for Equality between men and women at a seminar organised in Stockholm in June 1999¹.
- 1.2 As part of the Social Policy Agenda, adopted in Nice in December 2000, the European Council recognised the need for increasing awareness, the pooling of resources and the exchange of experience, in order to promote gender equality, in particular through the establishment of a European Institute for Gender Equality. The European Council asked for the completion of a feasibility study on this issue.
- 1.3 The European Commission subsequently commissioned a feasibility study under the Community Framework Strategy on Gender Equality (2001-2005). The study, which was completed in July 2002, assessed the need for the creation of a European Institute for Gender Equality, its aims and administrative structure. The results of the study have been made available for comments to all interested parties, in particular the tripartite Advisory Committee on Gender Equality, the Programme Committee and the High Level Group of Gender Mainstreaming Officials.
- 1.4 The Employment, Social Affairs, Health and Consumers Affairs Council of 1-2 June 2004², based on the results of the Informal Meeting of Equality Ministers organised by the Irish Presidency on 7 May 2004, fully supported the principle of the setting-up of a European Institute for Gender Equality, while stressing the importance of a structure which would bring added-value and would not duplicate existing activities in this area. The need for budget-neutrality was also mentioned.
- 1.5 In June 2004, the European Council³, reflecting the goals regarding equality between men and women of the Lisbon agenda⁴ and taking into account the previous discussions, expressed its support for the establishment of a European Institute for Gender Equality and invited the Commission to bring forward a specific proposal.
- 1.6 The European Parliament has also been calling since 2002 for the establishment of a European Institute⁵. In June 2004, the European Parliament published a report on the Role of a Future European Gender Institute.
- 1.7 The present ex-ante evaluation supports the Commission proposal for a Regulation of the European Parliament and of the Council establishing a European Institute for Gender Equality.

¹ Report from the seminar on a European Gender Institute held in Stockholm in June 1999, Swedish Ministry for Industry, Employment and Communications (Stockholm, January 2000)

² Council of the EU, Press release 9507/04, p. 11

³ European Council, 17-18 June 2004, Presidency conclusions, paragraph 43

⁴ European Council, 23-24 March 2000, Presidency conclusions, paragraph 5

⁵ European Parliament Resolutions P5-TA (2002)0372 of 4.07.2002, P5-TA (2002) 0606 of 17.12.2004, P5-TA (2004) 0023 of 14.01.2004 and P5-TA (2004) 0167 of 10.03.2004

1.8 This evaluation has been conducted in the second semester of 2004 by the Commission Services in charge of the policy area of equality between men and women, in particular DG Employment, Social Affairs and Equal Opportunities. It is based on the Feasibility Study for a European Gender Institute, 2002⁶, carried out on behalf of the Commission, the Commission Annual Report on equality between women and men, 2004⁷, the European Parliament report on the Role of a Future European Gender Institute, 2004⁸, the external evaluation and the Commission interim evaluation of the Programme relating to the Community Framework Strategy on Gender Equality 2001-2005⁹, as well as the Meta-Evaluation Report on the Community Agency System, 2003¹⁰ and the evaluations of the functioning of other agencies mainly the European Monitoring Centre on Racism and Xenophobia¹¹ and the European Agency for Safety and Health at Work¹².

2. Problem Analysis and needs assessment

Community policy on Equality between Men and Women and its implementation

2.1 Promoting equality between women and men is a core task of the European Union enshrined in the Treaty. The Amsterdam Treaty increased significantly the Treaty provisions in relation to equal treatment. Article 2 of the EC Treaty establishes equality between men and women as one of the tasks of the Community, and Article 3(2) imposes the obligation to mainstream equality between men and women in all EU policies and activities.

2.2 Legislation (12 Directives¹³ in the area of employment, working conditions and social security) has played, and continues to play, a crucial role by creating a floor of equal rights granted to all irrespective of gender. Proposals for legislation are initiated by the Commission¹⁴ and the Commission is also responsible for the monitoring of the transposition of Directives in the Member States. However legislation alone is not

⁶ European Commission Feasibility Study for a European Gender Institute (conducted by PLS Ramboll Management, DK, 2002)

⁷ Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, (COM(2004) 115 final, 19.2.2004)

⁸ Report on the Role of a Future European Gender Institute, A study for the European Parliament, by Yellow Window Management Consultants, a division of eadc n.v./s.a.

⁹ Commission Staff Working Document, Interim evaluation Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the Programme relating to the Community Framework Strategy on Gender Equality 2001-2005, SEC(2004) 1047, 11.8.2004

¹⁰ European Commission, Budget Directorate General, 15/9/2004

¹¹ Communication from the Commission on the activities of the European Monitoring Centre on Racism and Xenophobia, together with proposals to recast Council Regulation (EC) 1035/97, COM(2003) 483, 5.08.2004

¹² Communication from the Commission on the evaluation of the European Agency for Safety and Health at Work accompanied by a Proposal for a Council Regulation amending Regulation (EC) N° 2062/94 establishing a European Agency for Safety and Health at Work, COM(2004) 50, 23.04.2004

¹³ A further Directive was adopted in December 2004 – Council Directive 2004/113/EC of 13 December 2004 on implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

¹⁴ Before submitting a proposal in the social policy field (Articles 136 – 145), the Commission must consult the social partners at EU level on the possible direction of Community action. This consultation may, in accordance with Articles 138 & 139 EC, result in agreements of the social partners at EU level.

sufficient to achieve equality in practice. The Community commitment to gender equality is therefore not confined to legislation.

- 2.3 Recognising that gender equality in the EU was being undermined by the fact that women and men do not have equal rights in practice and that there are structural gender inequalities, the European Commission, in 2000, proposed a new approach to gender equality through a framework strategy for the period 2001 - 2005¹⁵. The purpose of this strategy is to create greater synergy between the key Community instruments to promote gender equality such as legislation, gender mainstreaming and funding tools. It establishes a framework for action within which all Community activities can contribute to attain the goal of eliminating inequalities and promoting equality between women and men as set out in Article 2(3) of the EC Treaty.

The core element of the Strategy is a structured system of pledges (annual gender equality work programmes for each Directorate General) and follow-up and evaluation as regards the implementation of these pledges (annual reporting: until 2003 in the form of a gender scoreboard and a report on equal opportunities; from 2004, in the form of the gender report to the Spring Council). The implementation of the Framework Strategy is backed up by an organisational structure, namely the inter-service group on gender equality, which brings together representatives of all Commission services. Its main task is to develop the future gender mainstreaming activities and work programmes, monitor their implementation and supply cross-service support and exchange of experience.

- 2.4 In order to develop the horizontal and coordinating actions (such as networking, awareness raising, analysis and assessment tools, monitoring, reporting and evaluation) required to successfully implement the framework strategy, it is supported by a funding programme¹⁶ - the Action Programme to promote gender equality 2001-2005. The overall budget for the Programme is €50m over 5 years (2001-2005)¹⁷. This Programme has the following objectives and corresponding strands:

- awareness raising activities e.g. transnational conferences organized by national authorities, EU events, Presidency conferences, etc.
- analysis and evaluation of gender issues in EU policies and measures e.g. studies, comparable statistics, indicators, follow up of equal treatment legislation, etc.
- development of the capacity of players to promote gender equality effectively i.e. transnational exchanges of experiences and good practice.

Actions funded under the Programme are implemented in a transnational framework with a view to developing Community added value. The Programme also finances two expert networks to assist the Commission. The employment network gives advice and assistance to the Commission in the analysis and monitoring of equality between women and men within the labour market and in the field of social

¹⁵ COM(2000) 355, 7.06.2000

¹⁶ Council Decision of 20 December 2000 establishing a Programme relating to the Community framework strategy on gender equality (2001-2005) (2001/51/EC)

¹⁷ The Commission proposed the extension of the Programme for a one-year period until a new multi-annual framework programme on the financing of actions in the employment and social field for the period of 2007-2013, including a strand on gender equality, is established – Proposal for a Decision, COM(2004) 551, 19.8.2004

inclusion. The network of legal experts gives advice and relevant information to the Commission in relation to the analysis and monitoring of effective transposition and implementation of the existing Community gender equality legislation at national level. It also supports the Commission in the development of new legislative instruments at EU level and informs the Commission of emerging needs as regards legislation.

The interim evaluation of the Programme¹⁸ concluded that the Programme has contributed to the development and implementation of EU law concerning gender equality and to the promotion of the gender dimension in EU policies. However the evaluation also concluded that the EU added value of activities relating to capacity building of players to promote gender equality requires further analysis.

- 2.5 The Advisory Committee on Equal Opportunities for Women and Men was established to assist the European Commission to formulate and implement the activities of the European Union aimed at promoting equal opportunities for women and men and to foster ongoing exchanges of relevant experience, policies and practices between the Member States and the various parties involved. It prepares and delivers opinions to the Commission on matters relevant to equal opportunities.
- 2.6 Gender mainstreaming involves the systematic consideration of the differences between the conditions, situations and needs of women and men in all Community policies and activities when defining and implementing them. In Lisbon and Stockholm the European Councils set ambitious new targets for gender equality and invited the Commission and the Council to improve gender statistics and indicators. In 2003 the European Council invited the Commission to report annually on developments towards gender equality and orientations for gender mainstreaming of policy areas.
- 2.7 In order to reinforce co-operation with the national gender equality authorities and co-ordination of activities on gender mainstreaming the Commission organises, in close co-operation with the EU presidencies, bi-annual high-level meetings with senior officials with responsibility for gender equality policies in the Member States. The aim is to create a forum for an exchange of views on political and strategic matters related to gender mainstreaming and gender equality and to support initiatives taken by presidencies on gender mainstreaming in the Council.
- 2.8 The promotion of gender equality is an explicit component of the European Employment Strategy launched by the Luxembourg European Council in November 1997. An important boost to this process has been given by the 2000 Lisbon Council, which fixed targets for the European Union to achieve a female employment rate of at least 60% and an overall employment rate of 70% by 2010, and the 2002 Barcelona Council, where EU Heads of State and Government set a concrete target for childcare supply: to provide childcare to 90% of children between three years old and the mandatory school age and at least 33% of children under three years of age by 2010.

¹⁸ Commission Staff Working Document, Interim evaluation Report from the Commission to the Council, the European Parliament, the European Economic Committee and the Committee of the Regions on the programme relating to the Community Framework Strategy on Gender Equality 2001-2005, SEC(2004) 1047, 11.8.2004

2.9 The 2003 guidelines for the employment policies of the Member States commit the Member States, through an integrated approach combining gender mainstreaming and specific policy actions, to encourage female labour market participation and to achieve a substantial reduction in gender gaps in employment rates, unemployment rates and pay by 2010. Since 2000, the Council addresses recommendations to individual Member States in relation to their National Employment Action Plans. To-date, a very significant proportion of the recommendations have focussed on strengthening equal opportunities policy which suggests that more needs to be done at national level.

2.10 Equal opportunities between men and women has been a priority objective of the Structural Funds since 1994. The General Structural Funds Regulation for the programming period 2000 – 2006 sets gender equality as a key objective and provides that the gender equality dimension must be incorporated into operations co-financed by the Funds. Therefore gender mainstreaming should be a principle in all fields of Structural Funds interventions or priorities. The EQUAL Programme, which is funded by the European Social Fund, aims to develop new ways to tackle discrimination and inequalities, including discrimination and inequalities on grounds of sex, in the labour market.

One of the findings of the 2002 Commission Communication on the Implementation of Gender Mainstreaming in the Structural Funds Programming Documents 2000-2006 is that gender equality is still concentrated in employment and human resources. A High Level Group with Member States representatives has been created to support and coordinate the implementation of gender mainstreaming in the interventions of the Funds.

2.11 Policies in the field of education and training are important tools for the promotion of gender equality. Decisions establishing the Socrates and Leonardo da Vinci Community Action Programmes refer explicitly to the promotion of equal opportunities. The promotion of equality between women and men is also incorporated into all actions taken under the Youth programme.

2.12 The implementation of the Lisbon strategy in the field of education highlights the need to tackle the gender gaps in terms of access of women to scientific careers. In the area of science and research, gender mainstreaming was given an impetus by a Commission Communication¹⁹, two European Research Council resolutions²⁰ and two European Parliament Resolutions²¹. Additionally, specific measures concerning the gender dimension in European research policy were implemented through the "*Science and Society action plan*"²². To ensure the integration of a gender

¹⁹ Communication from the Commission "Women and Science" Mobilising women to enrich European research, Brussels COM(1999) 76, 17.02.1999.

²⁰ Council Resolution on Women and Science, Brussels, 01/06/99 (OJ C 201 of 16 July 1999); Council Resolution on Science and Society and on Women in Science, Brussels, OJ C 199 of 14 July 2001.

²¹ Parliament Resolution PE 284.656 of 03/02/2000 on the Communication of the Commission listed above, § 6 & § 23; Parliament Resolution (RR/431754EN.doc-PE 297.122) on the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee of the Regions – "Making a reality of the European Research Area: Guidelines for EU research activities" (2000-2006) (COM(2002)612-C5-0738/2000-2000/2334(COS))§44 (1999) 76 final, the implementation of the European Research Area and the "3% objective".

²² COM(2001) 714, 04.12.2001 (Actions 24-27).

perspective at all levels of implementation of the Sixth Framework Programme as well as in the content of the research agenda, a *Gender Watch System* has been set up and on-going gender monitoring studies are being undertaken. Specific research to improve the understanding of the gender issue in scientific research and to identify key issues for further strategic policy development is financed throughout the Sixth Framework Programme.

- 2.13 In the area of development policy and external relations, the Commission has taken concrete initiatives to improve the implementation of gender mainstreaming in these policies. They include training on gender issues, systematic use of sex disaggregated data and gender analysis in policy and programmes, institutional mechanisms of quality assurance and monitoring of gender in policies and programmes as well as co-ordinating structures to circulate information and best practice.

A Regulation of the European Parliament and of the Council was adopted in April 2004 on promoting gender equality in development aid²³. The purpose of this Regulation is to implement measures to promote gender equality in Community development cooperation policies, strategies and interventions. It provides for the provision by the Community of financial assistance and appropriate expertise aimed at promoting gender equality in all its development cooperation policies and interventions in developing countries. The Community support is aimed at complementing and reinforcing the policies and capacities of developing countries as well as the assistance provided through other instruments.

- 2.14 The evaluation of the implementation of the Commission's 2003 gender equality work programme²⁴ in all policy areas within the Framework Strategy highlighted some of the successes achieved during 2003. However, it noted that gender mainstreaming seems to be evident only in the policy areas relevant to those Directorates General and Services where gender equality is expressly incorporated into the legislative basis of the policy, and/or where the employment of women in the economic sector is high.

Conclusions

- 2.15 There is no doubt that Community legislation and policies on equal treatment between men and women have resulted in substantially reducing discrimination, particularly in the area of employment.
- 2.16 The 2004 Report on Equality between Women and Men²⁵, which gives an overview of progress made to-date in the EU and in the then acceding states (now Member States), regarding the status of women and men in main policy areas, such as education, research policy, employment and social policies, balanced participation in decision-making, gender-based violence and trafficking in women, confirms a positive trend towards narrowing the gaps between women and men in several policy

²³ Regulation (EC) No 806/2004 of the European Parliament and of the Council of 21 April 2004 on promoting gender equality in development cooperation, Official Journal L 143, 30/04/2004 P. 0040-0045

²⁴ Commission Staff Working Paper, Framework Strategy on Gender Equality – Work Programme for 2004, SEC(2004) 911, 2.7.2004.

²⁵ COM(2004) 115 final of 19-02-04

areas. However it highlights that progress is too slow and that enhanced efforts are necessary.

The Report noted that major barriers to achieving equality between women and men still remain and that reinforced monitoring and assessment is essential. It also noted that the success in narrowing gender gaps differs between Member States. The employment gap was still 16.3 percentage points in 2002 (71.0% for men and 54.7% for women) and the unemployment gap still 1.8 percentage points (9.8% for women and 8.0% for men) in the EU-25. The gender pay gap in unadjusted form for the old Member States has remained the same or almost the same, 16 %, for several years. However, the gender pay gap has shown signs of increasing in a number of Member States in the last two years.

2.17 In addition, the 2004 report on the social situation in the European Union²⁶ shows that there are still significant gender gaps in several other policy areas, such as education and training and decision making. In 2002, in almost all EU-countries the education attainment level of young women aged 18 - 24 (79.5% in EU-25) was higher than that of young men (73.7% in EU25). There was also a higher percentage of male early school-leavers. Employment rates are however lower for women and women are under-represented in decision making positions in employment. In the area of political decision making there has been some progress although women continue to be under-represented both in National Parliaments and in the European Parliament. On average 21.4% of members of national parliaments are women and the corresponding figure for the EP is 30 %.

2.18 In conclusion, while the promotion of gender equality has resulted in a lessening of overt forms of discrimination and the mainstreaming of gender equality, particularly in the social policy area, there is a need for further action in all policy areas. Furthermore, the recent enlargement of the Union has resulted in a more diverse Union involving different levels of experience and development in the area of gender equality.

In order to make further progress, there is an evident need to raise awareness and give greater visibility to Community policy and achievements in the area of gender equality. There is also a need to foster the exchange of experience among relevant stakeholders and to provide technical assistance to the Community institutions and Member States through the development of appropriate methodological tools and information and data, which are comparable at European level, for a more effective implementation of the policy.

2.19 This ex-ante evaluation examines the ways to deal with these challenges while respecting the principle of good governance.

3. Objective Setting

3.1 The European Commission feasibility study, completed in July 2002, assessed the need for the creation of a Gender Equality body at European level, its aims and its

²⁶ The Social situation in the European Union, 2004 Overview, European Commission

organisational and administrative structure. The study, which involved interviews with key stakeholders, concluded that there is a need for an Institute at European level that can make use of and add value to the work carried out at Member State level and to take on board certain tasks which are not being carried out by the existing institutions specifically in the areas of the centralisation and dissemination of information, co-ordination of research, provision of visibility to gender issues, and the construction of tools for mainstreaming.

- 3.2 The study concluded that the Institute should have links to research centres and should collect and disseminate existing research rather than conduct research itself. National reference centres should support the Institute. It should be run by a small board, while the broader stakeholder groups could be included through annual meetings, networks and reference groups. Finally, the Institute should be a technical institution and its main target group should be the policy-makers at European level.

The study suggested that the core tasks of the Institute should be to:

- collect and disseminate information, especially with a more practical emphasis and work on developing information standards which can be made to be compatible;
- promote co-operation and networking;
- develop and test tools, models and methods for the implementation of gender mainstreaming;
- increase visibility for gender equality through campaigns, seminars and workshops; and
- coordinate research.

- 3.3 In June 2004, the European Parliament published a report on the Role of a Future European Gender Institute. The report involved comprehensive desk research and consultations with stakeholders and policy-makers at European, national and international level. The report concluded that there is a very broad consensus on the need for a European Institute for Equality between Men and Women as an autonomous Community body.

Among the arguments put forward in support of an Institute are:

- European activity in the domain of gender equality is currently characterised by a perceptible institutional deficit (resources for 'gender equality' are insufficient to cope with the main issues and challenges to be addressed while the need for a continuously available support structure disposing of the necessary technical expertise persists; achievements from the past are focused on the labour market and demonstrate insufficient concern for gender equality in the other EU policies; implementation of the EU Directives on gender equality in the labour market is not homogeneous within the Community, leaving an enormous discrepancy between de jure and de facto equality; existing Community agencies fail to demonstrate that gender equality is mainstreamed in their respective domains, and hence undermine the credibility of the commitment at EU level).

- An autonomous Community agency, providing for a mechanism of co-opting certain stakeholder groups into the decision-making process, offers the possibility to ensure democratic representation while at the same time shielding the domain from the growing politicisation of EC policy-making.
- Specialised technical expertise is needed in the field of equal opportunities and gender mainstreaming in order to translate the commitments into action. An autonomous Institute would facilitate the mobilisation of expertise and competence which have been developed at national level.
- The assignment of specific responsibilities to an autonomous Institute ensures the mobilisation of all knowledge relevant to public decision-making within a relational context between peers that can minimise bureaucratic or political bias during the deliberations. This reinforces the ability of the EU to understand and act on the basis of this knowledge.
- An autonomous Institute has the capacity and credibility to be an independent and recognised reference centre for policy-makers and the public at large because of its unique focus on gender issues and its ability to mobilise the necessary expertise. This would ensure the visibility of the public action.

3.4 According to the study, the main benefits resulting from the establishment of an Institute are the support to the Commission in making more substantial and faster progress with regard to the realisation of gender equality policy, the greater visibility of EU public action, the creation of an independent 'knowledge centre' and the provision of a long-term perspective and continuity in the pursuit of the objectives, facilitating a broader horizontal concern, serving the goals of the EU gender policy.

The study suggested the following tasks for the Institute:

- to collect and interpret research results and relevant data: to provide the Community, its institutions, Member States and all other target groups with objective, timely, reliable and comparable data at European level;
- to provide technical assistance to policy-makers: providing instruments for all policy areas, guidance for their implementation and evaluation, examples of best practice, etc.;
- to disseminate information and undertake action for awareness-raising; and
- to promote, develop and foster networking.

3.5 Both studies concluded that there is a real need for a body to collect comparable data and information at European level, to promote co-operation and networking and increase awareness raising by promoting visibility for public action in a systematic and comprehensive way. These activities were considered essential for the effective implementation of the gender equality policy, in particular in the context of the enlarged EU.

4. **Alternative Delivery mechanisms and Risk Assessment**

4.1 The Commission carefully examined three options which could be adopted in order to respond to the needs described above so as to promote effective implementation of Community gender equality policy.

4.2 Option 1 (no specific action)

This option consists of maintaining the status quo in relation to the existing institutional infrastructure. As indicated previously, Community legislation and policies on equal treatment between men and women, have resulted in substantially reducing discrimination, particularly in the area of employment, however, progress is too slow as significant gender gaps still exist in most policy fields.

As the action required cannot be implemented in a sufficiently comprehensive and systematic manner, in particular in an enlarged EU, this option will mean that progress in relation to the achievement of gender equality in the European Union will remain slow and the potential to improve the implementation of the policy and also to bring Europe closer to the citizens through the raising of awareness of Community gender equality policies will not be availed of.

4.3 Option 2 (extend the remit of an existing institution)

This option consists of assigning specific responsibility for gender equality to an existing agency or to the future Fundamental Rights Agency which will replace the European Monitoring Centre on Racism and Xenophobia²⁷.

Two out of the fifty nine stakeholders interviewed as part of the Feasibility Study suggested that the European Foundation for the Improvement of Living and Working Conditions, in particular the "Extending Committee on Equal Opportunities for Men and Women", is already effective in the field of gender issues. They were of the opinion that if more activity is necessary it should be carried out within the existing framework, whose role should be reinforced. The appropriateness of extending the remit of the European Foundation was therefore considered.

The mandate of the European Foundation is to "contribute to the planning and establishment of better living and working conditions through action designed to increase and disseminate knowledge likely to assist this development"²⁸. The Foundation aims to support policies to make Europe the most competitive, knowledge-based economy in the world, to increase employment rates and the quality of employment and to stimulate innovation and entrepreneurship, while promoting social cohesion and inclusion. In its work programme for the period 2005 – 2008²⁹, the Foundation has identified four key themes namely employment, work-life balance, industrial relations and partnership and social cohesion. One of the

²⁷ Member States meeting in the framework of the European Council in December 2003 requested the Commission to prepare a proposal for a human rights agency by extending the mandate of the European Monitoring Centre on Racism and Xenophobia.

²⁸ Council Regulation (EEC) No. 1365/75 of 26 May 1975, as amended.

²⁹ Changing Europe: Better work, better life, Four-year work programme 2005-2008, European Foundation for the Improvement of Living and Working Conditions, July 2004.

general orientations for the development of the work programme over the next four years will be to extend gender mainstreaming. It is clear that the role of the Foundation is confined to the improvement of living and working conditions and that it does not cover gender equality issues in all Community policies. Extending its functions would require substantial additional expertise and financial resources, otherwise there is a danger that gender equality would remain a peripheral matter and would not receive the necessary attention and priority and as a result the impact would be very limited.

With regard to the feasibility of extending the functions of another existing agency, there is no existing agency whose remit goes, in the best case, beyond gender mainstreaming in a specific policy area. To add the tasks envisaged at paragraph 4.4 to an existing agency would result in significant additional tasks which would go far beyond the specific policy areas within the remit of the agency in question and would therefore be inconsistent with the other functions of the agency. Furthermore, by simply adding this function to an existing agency there is a danger that the issue of gender equality would remain a peripheral matter next to the other issues to be addressed by the host structure and that it would not receive the necessary attention and priority and as a result the impact would be limited.

The question of including gender equality among the functions of the future Fundamental Rights Agency was also considered. The right to equal treatment between men and women is a fundamental right and as such it could be included within the remit of the future Fundamental Rights Agency. However, equality between men and women is also a specific well defined Community priority policy enshrined in the Treaty (Articles 2, 3(2), 13, 137 and 141) and supported by a well established Community *acquis* consisting of twelve directives³⁰ and extensive case-law (approximately 200 judgements of the European Court of Justice). In addition to Article 13 which empowers the Council to take measures to combat all forms of discrimination including sex discrimination, Article 3(2) provides for a supplementary obligation: to promote gender equality in all Community policies. This approach has been maintained in the draft Constitutional Treaty.

Furthermore, there are some very important socio-economic aspects linked to the promotion of gender equality. Women, who make up 52% of the population of Europe, have a vital role to play in the achievement of the Lisbon strategy objectives. It is therefore necessary to pursue policies in order to eliminate the gender gaps in pay and vocational training and to develop childcare services and measures to facilitate the reconciliation of work and family life. Women also represent a key element for sustainable development in the context of the ageing of the European population: during the next 20 years the working age population will fall by 12 million. In this context, it is necessary not only to increase the female employment rate by 10%, but also to develop and reinforce equality policies in order to assure an equal sharing by men and women not only of work but also family life in order to increase the birth rate.

The proposal to establish a Fundamental Rights Agency does not mean that it must deal with all fundamental rights issues. In the case of other specific fundamental

³⁰ A further directive was adopted in December 2004 – see footnote 13.

rights (e.g. health and safety at the work place and the environment) specific agencies have also been established. This demonstrates that there is a need, in some cases, for specific instruments for fundamental rights for which specific policies are developed. At international level also, Human Rights in the United Nations are dealt with within the Commission for Human Rights while gender equality is an issue for the separate Commission on the Status of Women.

Therefore, the advanced state of development and the specificity of gender equality policy, which goes beyond the fight against discrimination and the respect of a fundamental right, are such that justify a separate agency. It was for these reasons that in June 2004 the European Council invited the Commission to submit a proposal for the creation of a specific European Institute for Gender Equality even though in December 2003 it had requested the Commission to prepare a proposal for a Human Rights Agency by extending the mandate of the European Monitoring Centre on Racism and Xenophobia.

The establishment of a separate Institute for Gender Equality will have some financial implications as there will be a need for separate management and support structures, accommodation, etc. However, any financial savings that might result from the inclusion of gender equality within the scope of the future Fundamental Rights Agency or an existing agency would be outweighed by the disadvantages highlighted above.

4.4 Option 3 (separate body)

This option consists of setting up an autonomous European agency to serve as a technical support to the European Institutions and the Member States authorities.

This option would result in the existence of a body which would assist the Community institutions, in particular the Commission, and the Member States with regard to the realisation of gender equality by providing relevant information and data comparable at European level; give visibility to the EU public action in relation to gender equality policy and safeguard its credibility; encourage the formation of networks between relevant stakeholders and provide a central source of knowledge and expertise.

As highlighted in the Meta-Evaluation Report on the Community Agency System, the appropriateness of outsourcing certain Community tasks to external bodies depends largely on the particular needs. The type of needs identified in this report as appropriate to out-source are exactly the kind of needs identified in the context of the promotion of gender equality policy, in particular, lack of comparable data, knowledge and research on specific issues at European level, lack of co-operation and exchange of information between stakeholders, etc.

The Commission therefore considers that there is a clear need for the creation of an autonomous body, an Institute at European level, in order to assist the Community and its Member States in the development of their policies for the promotion of equality between men and women.

The Commission is of the opinion that the Institute should be a centre of excellence and should be assigned tasks which could be grouped as follows:

firstly, those intended to provide technical assistance through the collection and analysis of research results and relevant data and through the development of tools for integrating gender equality in all policy areas. The data should be objective, reliable and comparable at European level and for this purpose the Institute should develop specific indicators and criteria. It should also carry out, when necessary, surveys and organise experts' meetings to support research work;

secondly, those concerned with the organisation of activities (round-tables, meetings, etc.) in order to foster the exchange of experience and develop a permanent dialogue at European level with and among all relevant stakeholders, such as Community and Member States institutions, social partners, non-governmental organisations, research centres, etc.;

thirdly, those which concern the broad dissemination of information, in order to further raise awareness among the stakeholders and the public at large, through the organisation of campaigns, conferences, a documentation centre, a website, publications, etc.

Assigning these tasks to an agency will also enable the Commission to concentrate its efforts on its core tasks i.e. the development of policies and the monitoring of the Community *acquis*. The Institute's activities will be distinct from those proposed under the gender equality strand of the PROGRESS programme (2007-2013)³¹, which are intended to support the Commission in the carrying out of its core tasks.

5. Lessons from the past

- 5.1 The Commission, in preparing a proposal for an Institute, will take account of the findings of recent evaluations of the functioning of other Community agencies, in particular those in related areas such as the evaluations of the functioning of the European Monitoring Centre on Racism and Xenophobia, the European Agency for Safety and Health at Work, the European Centre for the Development of Vocational Training and the Foundation for the Improvement of Living and Working Conditions in order to benefit from their experience and avoid possible mistakes in the design of the new Institute. Account will also be taken of the Communication from the Commission on the operating framework for European Regulatory Agencies³².
- 5.2 The experience of these agencies and the Commission Communication are valuable as regards, for instance questions relevant to the effective functioning of the management structures, in particular in an enlarged union; how to ensure the maximum credibility and objectivity of the information provided and how to ensure coherence between the activities of the new Community body and the Community policy in this area in order to increase the impact of the Institute.

As regards the management structures: the Commission will propose that the management board should be in line with the Communication from the Commission on the operating framework for the European Regulatory Agencies which suggests

³¹ Proposal for a European Parliament and Council Decision establishing a Community Programme for Employment and Social Solidarity – PROGRESS, COM (2004) 488 final, 14.07.2004

³² COM(2002) 718 final

that the management boards of regulatory agencies might consist of 15 members – six representatives of the Commission and six of the Council (representing the national executives) and three, without voting rights, representing the interested parties. This structure takes account of the Community dimension, makes use of the expertise of the Member State executives and takes account of the views of the interested parties. As indicated in the Communication this smaller structure will help to ensure that the Institute functions effectively in the enlarged EU. It is considered that experts should not be appointed to the board by the European Parliament as the Parliament must be free to exercise external political supervision over the activities of the Institute, without feeling tied by its membership of the board.

The Commission will also propose that an Advisory Forum should be established in order to facilitate co-operation and information exchange between the Institute and competent institutions and bodies in all the Member States and to support the Director in ensuring the excellence and independence of the activities of the Institute. This Forum should ensure the best use of the available expertise and resources across the EU in pursuit of the Institute's mission whilst respecting the overarching requirement for independence. The Commission will therefore propose that the Forum should be composed of one expert from each Member State from competent bodies specialised in gender equality issues and three representatives of interested parties (NGOs and social partners) at European level. The Commission's proposal will also provide the possibility for relevant experts to take part in the activities of the Forum on an ad hoc basis in order to ensure the availability of appropriate expertise in relation to all issues.

As regards the question of how to ensure coherence with the Community policy, the Commission, taking into account the experience of the European Agency for Safety and Health at Work, considers that it is very important to link the work programme of the Institute with the relevant Community policy and in particular with the work programme of the Commission. As the Commission's and European Parliament's studies highlighted, the Institute should be a technical support mainly for the Community policy makers. The best way of ensuring effective results is therefore to align the work programme of the Institute with the Community priorities in this policy area. The Commission in its proposal provides for the necessary working methods to ensure this alignment and to facilitate close co-operation between the Institute and the Commission.

6. Added-Value and Complementarity

EU added- value

- 6.1 An institute responsible for the tasks set out at paragraph 4.4 will lead to an improved understanding of structural discrimination and practice leading to inequality; contribute to better EU monitoring of the implementation of EU policies and the design of new ones through the collection and dissemination of data, information and results of research at EU level; reinforce the capacity of relevant stakeholders at national and EU level; create arenas for sharing knowledge, data and information on best practices and in that way build capacity and ensure greater visibility; and finally, it will facilitate the dissemination of information to the EU citizen. Only a European Institute could execute these tasks.

Added-value of an external institute

6.2 The Meta-Evaluation Report stresses that the added value that would result from the creation of an independent body includes the following:

- an independent body could more easily ensure the stakeholder involvement needed at European level (through expert networks, national representation on the management Board, etc.) and could more easily establish and maintain formal and informal networks throughout the Community.
- the greater independence of agencies enhances the credibility and perceived objectivity of information and can provide a more neutral forum for discussions and exchange of information (e.g. through Round Tables, Conferences, etc.).

The Meta-Evaluation concluded that agencies offer a considerable potential as providers of state-of-the-art expertise that is generally considered as being independent and of high quality. This is important for the legitimacy and credibility of EU interventions in areas of a complex nature.

Possible risks

6.3 The Commission feasibility study revealed that, while the majority of stakeholders supported the establishment of a European Institute, many of them feared that the establishment of a new body would result in the duplication of pre-existing agencies or that institutions would conduct less work on gender if one central Institute was responsible for the gender dimension and associated initiatives. Other possible weaknesses identified in the study were that the concentration of gender issues in one institution might make it difficult to implement the gender mainstreaming strategy; the work of the Institute would be unfocused because of overload of tasks and it might become too academic and isolated or that it would have insufficient knowledge about the individual activities taking place in each Member State; and lack of financial resources would mean that the Institute would not be able to do its work.

6.4 The Commission proposal will put a number of mechanisms in place in order to overcome these possible disadvantages and to ensure the best use of resources. In particular:

- co-operative exchange and synergy mechanisms will be put in place in order to avoid overlap and to create synergies with other relevant Community activities. The proposed Regulation will provide for co-operation between the Institute and other Community agencies, in particular agencies acting in related areas, in order to ensure the integration of the gender perspective into the Community areas relating to their work and in order to avoid duplication of activities. For example, the Directors of the European Foundation for the Improvement of Living and Working Conditions, the European Foundation for Safety and Health at Work, the Centre for the Development of Vocational Training and the future Fundamental Rights Agency will be invited to attend the meetings of the Management Board. "Memoranda of understanding" setting out the mode of co-operation and synergies could also be signed between the Institute and other relevant agencies. This practice has been successfully developed in the case of for example the

European Foundation for the Improvement of Living and Working Conditions and the European Agency for Safety and Health at Work.

- the objectives and tasks of the Institute will be clearly set out in the proposed Regulation. The proposed Regulation will provide that the Board of the Institute will consist of representatives of the Council (6) and the Commission (6) as well as three representatives, who will not have voting rights, of interested parties at European level (NGOs and the social partners). The Institute will also encourage synergies and networking among stakeholders across the Union through the Advisory Forum which will be composed of one expert from each Member State and three representatives of interested parties at European level (NGOs and the social partners). The proposed Regulation will also allow for the participation, on an ad hoc basis, of other experts or representatives of relevant sectors in the Advisory Forum. Therefore, there is no risk of having a body which is isolated and too academic.
- as regards the financial resources, it is proposed to provide a total budget of €52.5m for the Institute for the period 2007-2013, which is considered an appropriate budget for the tasks foreseen. In addition, in the PROGRESS programme the Commission has proposed an additional sum of €54.5m over the same period which is intended to support the Commission in the carrying out of its core tasks (shaping new policies and ensuring the effective implementation of the *acquis*).

7. Planning Future Monitoring and Evaluation

- 7.1 The proposed Regulation for the establishment of the Institute will provide that by the end of the third year following the entry into force of the Regulation, the Institute shall commission an independent external evaluation of its activities on the basis of terms of reference issued by the Management Board in agreement with the Commission. The evaluation will also assess the possible need to modify or extend the tasks of the Institute and the timing of further reviews. The assessment will take into account the tasks of the Institute, the working practices and the impact of the Institute on the promotion of gender equality and will include an analysis of the synergy effects and the financial implications of any extension of the tasks. The evaluation will take into account the views of the stakeholders, at both Community and national level.
- 7.2 The proposed Regulation will also provide that the financial rules applicable to the Institute will be adopted by the Management Board after the Commission has been consulted. It will also provide that these rules may not depart from Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities³³ unless specifically required for the Institute's operation and with the Commission's prior consent.

³³ OJ L 357, 21.12.2002, p. 72 with Corrigendum in OJ L 2, 7.1.2003, p. 39.

- 7.3 All measures developed by the Institute will form part of its annual programme agreed by the Management Board. The Director will be accountable for the management of his/her activities to the Management Board. In addition, controls by the Commission or the Court of Auditors of the European Communities may be carried out on the basis of documents or on the spot.

8. Helping to achieve Cost Effectiveness

- 8.1 The White Paper on European Governance³⁴ concluded that "the advantage of Agencies is often their ability to draw on highly technical, sectoral know-how, the increased visibility they give for the sectors concerned (and sometimes the public) and the cost –savings that they offer to business. For the Commission, the creation of agencies is also a useful way of ensuring it focuses on core tasks".

The assignment of tasks related to the collection, analysis and dissemination of data and information, the development of methodological tools and the organisation of awareness raising activities to the proposed Institute would enable the Commission to focus on its core functions in particular the development of policy and the effective monitoring of the implementation of the Community *acquis*, organisation of policy oriented events, etc. and therefore to make better use of its limited human resources.

- 8.2 At the same time the establishment of a permanent specialised agency will facilitate the building up of appropriate expertise and ensure the effective and efficient use of its resources.
- 8.3 The involvement of competent national equality bodies in the Advisory Forum and the creation of a documentation centre open to the public should ensure that the work of the Institute will be broadly disseminated throughout the Union and will have a multiplier effect.
- 8.4 The size of the Institute (30 persons from the sixth year) and the budget proposed by the Commission (€52.5million over the period 2007-2013) have been proposed taking account of budgetary and human resources of existing agencies which perform similar tasks, in particular the European Monitoring Centre on Racism and Xenophobia.

³⁴ COM(2001) 428, 25.07.2001